

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: G.J. Bertini et al.

Attorney Docket No.: UTLX114698

Application No.: 09/471,816

Group Art Unit: 2831

Filed: December 22, 1999

Examiner: C.N. Nguyen

Title: CABLE FLUID INJECTION SLEEVE



#11 Affidavit
JENNIS
4-23-02

DECLARATION OF GLEN J. BERTINI IN SUPPORT OF APPLICANTS' RESPONSE TO
OFFICE ACTION DATED OCTOBER 10, 2001

Seattle, Washington 98101

April 9, 2002

TO THE COMMISSIONER FOR PATENTS:

Glen J. Bertini declares that:

1. I, Glen J. Bertini, am one of the inventors of the subject matter disclosed and claimed in U.S. Patent Application No. 09/471,816, filed on December 22, 1999, entitled "Cable Fluid Injection Sleeve."

2. I am also Senior Vice President of UTILX Corp., assignee of the present application.

3. This declaration is being filed in support of the response to the Office Action dated October 10, 2001. I have read and understand the Office Action which has set forth rejections of Claims 1-35 under 35 U.S.C. §112, first paragraph, as containing subject matter not described in the specification as filed. Specifically, the Office Action sets forth the opinion that the specification does not provide support for the claimed subject matter of "a fluid having a viscosity of less than or equal to 1000 centipoise."

4. The specification discloses that "cable water-damage repair chemicals, such as, for example, a silicone fluid (CABLECURE®), may be injected into the cable 38." Page 8 lines 19 -21. CABLECURE® is injected into the cable by flowing the CABLECURE® through an orifice in the connector and into the hollow portion of the connector." Page 8 lines 24 -27. Inside the hollow portion, the CABLECURE® contacts cable strands of the cable, passes out of end of the cable connector, and travels into the cable for a predetermined distance. *Id.*

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESSSM
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

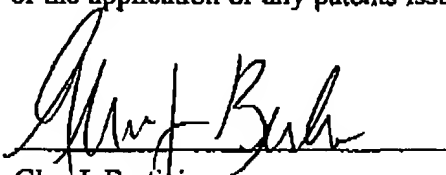
5. The silicone fluid sold under the trademark CABLECURE® is disclosed and enabled by U.S. Patent No. 5,372,841, issued to Kleyer et al. A copy of the record of registration for CABLECURE® services using CABLECURE® silicone fluid, as downloaded from the U.S. Patent and Trademark Office website, is attached as Appendix A. U.S. Patent No. 5,372,841 discloses that CABLECURE® silicone fluid has a viscosity at 25°C of less than 100 centipoise. Col. 2 lines 54-58.

6. Accordingly, CABLECURE®, as set forth in the above referenced patent application, is described and enabled in U.S. Patent No. 5,372,841. U.S. Patent No. 5,372,841 expressly discloses that such a compound has a viscosity at 25°C of less than 100 centipoise. Because U.S. Patent No. 5,372,841 is publicly available, the compound described in U.S. Patent No. 5,372,841 is sold commercially as CABLECURE®, and CABLECURE® is expressly cited in the application as filed, I submit that the specification provides support for the claimed subject matter of "a fluid having a viscosity of less than or equal to 100 centipoise," as now generally cited in amended claims 1, 14, and 25.

7. All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true, and further, these statements are made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment or both under § 1001 of Title 18 of the United States Code, and that such willful, false statements may jeopardize the validity of the application or any patents issuing thereon.

Date: _____

4/10/2002


Glen J. Bertini
Senior Vice President

Work Address
UTILX Corporation
P.O. Box 97009
Kent, WA 98064-9709

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.462.8100



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CABLECURE

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Word Mark CABLECURE

Goods and Services IC 037. US 103 104. G & S: maintenance and repair services; namely, restoring operation to medium to high voltage power distribution cable by introducing a silicone restorative material into the strands of the cable. FIRST USE: 19911001. FIRST USE IN COMMERCE: 19911001

Mark Drawing Code (S) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Serial Number 74184200

Filing Date July 12, 1991

Filed ITU FILED AS ITU

Published for Opposition February 11, 1992

Registration Number 1760783

Registration Date March 23, 1993

Owner (REGISTRANT) UTILX CORPORATION CORPORATION DELAWARE 22404
66th Ave. So. Kent WASHINGTON 980324801

<http://tess.uspto.gov/bin/showfield?f=doc&state=96k8f3.2.2>

4/9/02

Assignment
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Attorney of
Record LEE E JOHNSON
Type of Mark SERVICE MARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR).
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Indicator LIVE



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